



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

Paper No. 4

**COPY MAILED**

**APR 10 2001**

OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036-8403

In re Application of  
MacKay, et al.  
Application No. 09/631,810  
Filed: August 3, 2000  
Attorney Docket No. P/2167-221

**OFFICE OF PETITIONS**  
**A/C PATENTS**  
DECISION GRANTING PETITION

This is a decision on the petition filed October 27, 2000, requesting that the "Notice of Omitted Item(s)" mailed on October 2, 2000, be withdrawn.

On August 3, 2000, the application was filed. On October 2, 2000, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" (Notice), stating that the application had been accorded a filing date of August 3, 2000, and advising applicants that pages 2, 3 and 25 of the specification appeared to have been omitted.

In response, on October 27, 2000, applicants filed, inter alia, the present petition, a copy of pages 2, 3 and 25 of the specification, and a \$130.00 petition fee. The petition is accompanied by a copy of applicants' postcard receipt acknowledging receipt of ninety-nine (99) pages of specification, including claims and abstract in the United States Patent and Trademark Office (Office) on August 3, 2000. Applicants request that the application, including pages 2, 3 and 25 of the specification, be accorded a filing date of August 3, 2000, and the petition fee be refunded.


Upon review of the record, pages 2, 3 and 25 of the specification, deposited on August 3, 2000, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 3, 2000, included pages 2, 3 and 25 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including pages 2, 3 and 25 of the specification, was complete on filing and entitled to a filing date of August 3, 2000.

Accordingly, the petition is granted.

The Notice mailed October 2, 2000, was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to counsel's Deposit Account No. 15-0700.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 3, 2000, using the ninety-six (96) pages of specification submitted on August 3, 2000, and the three (3) pages of specification (pages 2, 3, and 25) submitted on October 27, 2000.

Any inquiries related to this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

CTT